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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,349	08/16/2000	Karen M. Schramm	IBN.5192	3369
24739	7590	05/06/2004	EXAMINER VANDERPUE, KENNETH N	
CENTRAL COAST PATENT AGENCY PO BOX 187 AROMAS, CA 95004			ART UNIT 2661	
			PAPER NUMBER	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/640,349

Applicant(s)

SCHRAMM ET AL.

Examiner

Kenneth N Vanderpuye

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sriram(5,463,620) in view of Kalkunte et al(6,470,016).

With regards to claims 1, 7, Sriram teaches an apparatus for controlling data traffic at a node on a network, comprising:

an output interface coupled to at least one link on the network for transferring data toward the at least one link(Fig. 5@48, Fig. 6@50), the at least one link being associated with a bandwidth value related to a maximum amount of data to be transferred on the link(Fig. 5@28, 150 Mb/s); a plurality of queues for storing data transferred via the output interface(Fig. 5, queues 36-46); and at least one processor for (i) assigning a queue value to each of the plurality of queues,(Fig. 6@52, 54, each of the queues are assigned a bit rate) each of said queue values being related to a preference for transferring data from its assigned queue onto the link(Fig.

5, the bit rate assigned to each queue is related to the type of data being transmitted), and (ii) assigning a data limit value to each of the plurality of queues such that an amount of data being transferred onto the link from each queue is limited by the data limit value assigned to the queue(Fig. 5, each queue has a transmission bit rate limit), each of said data limit values being derived from the bandwidth value for the at least one link.(Fig. 5, the total bit rate of all the queues is equal to the total capacity of the link). What sriram fails to teach is wherein if one of the plurality of queues has no data traffic, said queues data traffic capacity is allocated among other queues. The limitation is taught by Kalkunte(Fig. 7, col. 6 lines 30-37, col 7 lines 51-67). It would have been obvious to combine Sriram with Kalkunte for the purpose of reallocating bandwidth to queues that have data to send. The motivation being to ensure the efficient distribution of bandwidth.

Claims 2, 8 are rejected because Sriram teaches a system wherein the queue values assigned by the at least one processor are priority values, each priority value defining a priority for transferring data stored in the associated(In Fig. 5, the bit rates are related to the delay sensitivity of the data in the different queues which is a measure of priority)

Claims 3, 9 are rejected because the bit rates of each queue is a fraction of the total link bandwidth, hence a percentage.

Claims 4, 10 are rejected because the terms percentages weights etc produce the same result i.e. the assigned priorities reflect the delay sensitivity of the data being sent hence these values are weighted.

Claims 5, 11 are rejected for the same reasons as claims 3, 9.

Claims 6, 12 are rejected for the same reasons as claims 3, 9.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the

mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



KENNETH VANDERPUYE
PRIMARY EXAMINER